

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,

Case Nos.: 2:12-cr-00010-JAD-CWH

Plaintiff

v.

Order Denying Motions

Kevin A. Salisbury,

[ECF Nos. 171, 172, 173, 174]

Defendant

Defendant Kevin A. Salisbury remains under a term of supervised release after his release from prison on federal convictions for a 2010 felon-in-possession charge and a 2013 assault-on-a-federal-officer charge.¹ His serious mental-health and behavioral challenges have greatly complicated these proceedings. Although Salisbury was originally sentenced to a three-year term of supervised release, a previous revocation judgment mostly restarted that clock.² Two competency evaluations have resulted in him being found competent to assist counsel in his defense.³ And Salisbury's ceaselessly combative demeanor has caused him to churn through eight appointed lawyers.

At a hearing three weeks ago, Salisbury demanded yet another new lawyer. I conducted a sealed hearing to air his concerns and ultimately denied his motion because his claimed distrust of his current lawyer is unfounded and irrational, and his dislike of him is not a legitimate basis for discharge.⁴ In a letter request dated nearly two weeks before that hearing but not received by

¹ 2:13-cr-62-JCM-PAL.

² ECF No. 147 (8/13/22 revocation judgment).

³ ECF Nos. 53, 164 (orders granting evaluations).

⁴ ECF No. 170 (minutes). When I denied the motion, Salisbury spat at his lawyer. This fresh conduct, along with Salisbury's history of assault on a federal officer, now requires that he be restrained so as to prevent future assaultive behavior.

1 the court until after it, Salisbury raises the same concerns on which I denied his request for new
 2 counsel.⁵ Because it appears that his letter request predates and duplicates the points that
 3 Salisbury presented at the December 18, 2023, hearing, and I did not—and I still do not—find
 4 those reasons to be valid bases to replace his attorney a ninth time, that letter motion for new
 5 counsel is denied.

6 Salisbury, who remains represented by counsel, has recently mailed in three additional
 7 pro se motions entitled “Motion to Dismiss,”⁶ “Defense Motion of Discovery and Rule 11
 8 Hearing,”⁷ and “Motion for Competency Hearing.”⁸ Salisbury cannot file motions on his own
 9 behalf at this time because he is represented by counsel. As Local Rule 11-6(a) explains, “[a]
 10 party who has appeared by attorney cannot while so represented appear or act in the case. This
 11 means that once an attorney makes an appearance on behalf of a party, that party may not
 12 personally file a document with the court; all filings must thereafter be made by the attorney.”⁹
 13 So these rogue, pro se motions will be stricken from the docket.

14 IT IS THEREFORE ORDERED that **Salisbury’s motion for new counsel [ECF No.**
 15 **171] is DENIED.**

16 IT IS FURTHER ORDERED that the Clerk of Court is directed to **STRIKE Salisbury’s**
 17 **additional pro se motions [ECF Nos. 172, 173, 174] from the docket.** Defense counsel is
 18 directed to provide a copy of this order to Salisbury. If Salisbury believes that relief is

20 ⁵ ECF No. 171.

21 ⁶ ECF No. 172.

22 ⁷ ECF No. 173.

23 ⁸ ECF No. 174.

⁹ This rule provides an independent, alternative reason to deny Salisbury’s motion for new counsel, ECF No. 171.

1 warranted, he must ask his attorney to bring motions on his behalf. However, Salisbury is
2 reminded that attorneys are not scribes required to file documents and make all arguments
3 directed by their clients. As an officer of the court, counsel must determine in his independent,
4 professional judgment whether any motion or argument that Salisbury proposes is appropriate to
5 bring before the court.



U.S. District Judge Jennifer A. Dorsey
January 8, 2024